

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,

Plaintiff,

v.

S.M. BORQUEZ, et al.,

Defendants.

No. 1:23-cv-00046-ADA-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN CLAIMS

(ECF No. 11)

Plaintiff Devonte Harris is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 14, 2023, the assigned Magistrate Judge screened Plaintiff's complaint and found that it stated a cognizable claim against Defendants for deliberate fabrication of evidence in violation of the Fourteenth Amendment but failed to state any other cognizable claims for relief. (ECF No. 8.) The Magistrate Judge ordered Plaintiff either to file a first amended complaint or notify the Court of his willingness to proceed on the one cognizable claim the Magistrate Judge identified. (*Id.*) On March 6, 2023, Plaintiff notified the Court of his willingness to dismiss his malicious prosecution claim and proceed on the deliberate fabrication of evidence claim only. (ECF No. 9.)

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Pursuant to Plaintiff's notice, the Magistrate Judge issued findings and recommendations on March 7, 2023, recommending that this action proceed on Plaintiff's complaint against Defendants for deliberate fabrication of evidence in violation of the Fourteenth Amendment. (ECF No. 11.) The Magistrate Judge further recommended that all other claims be dismissed based on Plaintiff's failure to state claims upon which relief may be granted. (*Id.*) On March 21, 2023, Plaintiff filed a "Statement of Non-Opposition" to the findings and recommendations. (ECF No. 12.)


In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, including Plaintiff's non-opposition to the findings and recommendations, the Court finds the findings and recommendations to be supported by the record and proper analysis.

Accordingly,

1. The findings and recommendations issued on March 7, 2023, (ECF No. 11), are adopted in full;
2. This action shall proceed on Plaintiff's complaint, filed January 11, 2023, (ECF No. 1), against Defendants S. M. Borquez and P. Queredo for deliberate fabrication of evidence in violation of the Fourteenth Amendment;
3. All other claims are dismissed from this action for failure to state claims upon which relief may be granted; and
4. This action is referred back to the assigned Magistrate Judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: March 27, 2023


UNITED STATES DISTRICT JUDGE